

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

1STARR DALTON,

Plaintiff,

v.

CIVIL ACTION NO. 2:08-cv-01153

W. VA. DIVISION OF CORRECTIONS, et al.,

Defendants.

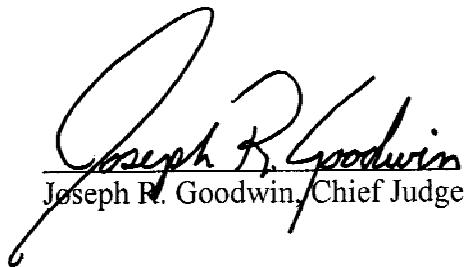
ORDER

Pending before the court is the defendants' Motion to Dismiss [Docket 16], and the plaintiff's Motion to Amend Complaint [Docket 20]. Pursuant to 28 U.S.C. § 636(b)(1)(B), this case was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for proposed findings of fact and recommendations for disposition. On May 18, 2009, the Magistrate Judge submitted the proposed findings of fact and recommendation ("PF&R") [Docket 19]. The Magistrate Judge recommended that the court grant the defendants' Motion. The plaintiff's Motion to Amend Complaint was filed on June 4, 2009, after the Magistrate Judge had submitted the PF&R.

On June 4, 2009, the plaintiff filed timely objections to the PF&R [Docket 21]. The court has reviewed *de novo* those portions of the Magistrate Judge's PF&R to which the plaintiff objects and **FINDS** that the objections lack merit. Accordingly, the court **ADOPTS** the Magistrate Judge's PF&R. Therefore, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendations. Having reviewed the plaintiff's Motion to Amend Complaint, the court finds that justice does not

require leave to file the same and hereby **DENIES** the Motion to Amend. The court further **GRANTS** the defendants' Motion to Dismiss. The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 25, 2009



Joseph R. Goodwin, Chief Judge